

# **EXHIBIT 77**

**BEFORE THE AMERICAN ARBITRATION ASSOCIATION**

North American Court of Arbitration for Sport Panel

United States Anti-Doping Agency, )  
)  
Claimant, )  
v. )  
)  
Floyd Landis, )  
)  
Respondent )  
\_\_\_\_\_)

AAA No. 30 190 00847 06

**DECLARATION OF RODRIGO AGUILERA, PH.D.**

I, Rodrigo Aguilera, declare as follows:

*Introduction*

1. I am serving as a consultant to the United States Anti-Doping Agency (USADA) in this matter. My expertise is in the field of analytical chemistry. I have spent most of my professional life developing or applying different analytical methods for various purposes. One of my special areas of expertise is in an analytical method for Isotope Ratio Mass Spectrometry (IRMS) and its application to detect prohibited substances such as exogenous testosterone or its precursors which some athletes use to enhance their athletic performance and endurance.

2. At USADA's request, I spent the week of April 16 to 21, 2007, at the *Laboratoire National de Dépistage du Dopage (LNDD)*, which is an analytical laboratory near Paris, France accredited by the World Anti-Doping Agency (WADA) among other organizations. The purpose of my visit was to observe LNDD's testing of seven urine samples given by Mr. Floyd Landis during various stages of the 2006 Tour de France, other than the

sample from Stage 17 for which he was previously found to have tested positive for exogenous testosterone.

3. I spent six full days, parts of several evenings and over 50 hours at LNDD observing the lab's preparation and testing of the seven Landis samples and three other negative control samples that I had brought with me to help ensure the integrity of the process and results.

4. The April 2007 analyses began on Monday April 16, 2007, with a meeting among representatives of LNDD, USADA and Mr. Landis. Present for LNDD were its Director Dr. Jacques de Ceaurriz, IRMS Supervisor Dr. Corinne Buisson and analytical chemists Cynthia Mongongu and Claire Frelot. Mr. Landis' representatives included Dr. Simon Davis and Paul Scott. Representing USADA were its outside counsel Daniel J. Dunn of the law firm of Holme Roberts & Owen and myself. Mr. Dunn distributed his business cards to everyone present, including Mr. Scott and Dr. Davis. His card included his cell phone number and e-mail address. Dr. de Ceaurriz began the meeting by outlining the upcoming week's events and schedule. Mr. Landis' representatives asked and we answered a number of questions during and following his remarks. We followed this same procedure at the start of each of the next five days.

5. Mr. Landis' representatives represented at this initial meeting that they were present only to observe the week's events.

6. At no point on Monday or any other day of the April testing did any of Mr. Landis' representatives ever object or indicate any reservation about proceeding in the absence of any neutral expert appointed by the arbitration panel.

7. At no point on Monday or any other day of the April testing did any of Mr. Landis' representatives ever request that any of Mr. Landis' B samples be split or that any aliquot of them be preserved so that they could independently analyze the material.

*The Blinding Process*

8. The process for the analysis of Mr. Landis' samples included many measures to ensure the integrity of the sample handling and analytical process. One included the use of blind samples, which we obtained from a batch of "clean" urine from which UCLA's anti-doping laboratory, Olympic Analytical Laboratory, regularly draws its negative control samples (the "Blind Samples"). By "clean" urine, I mean urine that has been certified free from exogenous testosterone and its precursors by IRMS analysis. My understanding was that USADA wanted LNDD to analyze the Blind Samples along with Mr. Landis' samples in a manner that would make it impossible for LNDD technicians to know whether the source of the samples they were analyzing was Mr. Landis or some other source. The blind procedure was designed to refute any later suggestion that any positive results the lab might report were somehow rigged.

9. I obtained four Blind Samples from the UCLA lab and verified that they were properly sealed before I left for Paris. I brought two with me on the plane and the UCLA lab shipped the other two to my hotel. I brought the four Blind Samples to LNDD on Monday morning April 16, 2007.

10. Following the introductory meeting described in paragraph 4, all LNDD personnel left the conference room, shutting the door behind them. The representatives of Mr. Landis and USADA discussed how to handle the Blind Samples. Rather than dictating

how the blinding process would occur, we asked Mr. Landis' representatives how *they* would prefer it to proceed. After some discussion, it was agreed, at Mr. Scott's suggestion, that only three of the four Blind Samples needed to be analyzed along with Mr. Landis' seven B samples, which would make an even total of ten samples to be tested over the next week. The parties reached agreement on other general procedures for handling the Blind Samples as well.

11. The parties then summonsed LNDD representatives and were escorted to the sample preparation room in the laboratory area.<sup>1</sup> Up until the Blind Samples were removed from their shipping containers and unsealed in the presence of Mr. Landis' representatives, I kept the Blind Samples in my sole custody and control while at LNDD, making sure they were always covered so that no one from LNDD could see them.

12. The parties followed Cynthia Mongongu, one of the two LNDD technicians assigned to perform the week's analyses, and Dr. Corinne Bussoin, LNDD's IRMS Supervisor, to a locked freezer No. 5 in another area of the laboratory where Mr. Landis' seven samples had been stored. Ms. Mongongu or Dr. Buisson checked the samples to ensure they bore the identification number assigned to Mr. Landis (995474).

13. Ms. Mongongu thawed the seven samples in heated water. LNDD personnel and Mr. Landis' representatives verified that the seals on the Landis sample bottles were intact. Ms. Mongongu secured the samples between two plates of a small piece of equipment that thoroughly mixed the contents. After Ms. Mongongu removed Mr. Landis' sealed sample

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<sup>1</sup> No one can get into the laboratory area without being escorted by a LNDD employee and going through two sets of locked doors that can be unlocked only with special key cards. Neither I nor Mr. Dunn had such a card or access to one. For security and quality control reasons, LNDD requires that a LNDD employee must escort any non-LNDD person while they are in the laboratory area.

bottles from the mixer and placed them on the counter, all LNDD representatives left the room and closed the door behind them.

14. Outside of the presence of any LNDD employee, I removed the Blind Samples from their containers. After examining the bottles visually and physically, Mr. Landis' representatives and I confirmed their seals were intact and unbroken. Mr. Scott then personally selected three of the four Blind Samples to be analyzed. He also determined the alpha-numeric identifier for each, NL1, NL2 and NL3, stating that NL stood for "Not Landis." I labeled the three according to Mr. Scott's direction. All of this occurred outside of the presence of any LNDD employee.

15. In the sample preparation room were ten sealed Styrofoam boxes, each containing a pair of empty standard A and B sample bottles manufactured by a company called Berlinger.<sup>2</sup> Each bottle was wrapped in a clear plastic bag.

16. I offered Mr. Scott and Dr. Davis the opportunity to perform the next steps in the blinding process. Those steps were to remove the seals from all ten bottles, transfer the contents to new sample bottles and seal them. Neither Mr. Scott nor Dr. Davis accepted the invitation. My recollection is that either Mr. Scott or Dr. Davis declared as his reason that he didn't want to "screw it up." Having no takers from the Landis camp, we asked LNDD to bring in a lab technician to make the transfers who had previously had no involvement with Mr. Landis' A or B samples and would have nothing else to do with the samples for the rest of the week. As the technician began his work, Mr. Scott interrupted the process to question

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<sup>2</sup> The bottles were the same type of Berlinger bottles in which Mr. Landis' samples were contained.

whether the technician should pour the contents from one bottle to another, or instead use a pipette. Mr. Scott suggested pouring would be better, but the lab technician decided to use a pipette, indicating in French that doing so was the lab's standard practice. Mr. Scott acceded.

17. Each time he completed the transfer of the contents of one bottle to a new bottle, the technician discarded the pipette tip he had been using and replaced it with a new, unused tip for the next bottle. Choosing at random, the technician selected an original sample bottle, broke the seal, transferred the sample material, and sealed the new bottle.<sup>3</sup> Each time, Dr. Davis recorded the new number next to its corresponding original number on a sheet of lined paper on which he had listed the original ten sample numbers. A copy of the handwritten sheet Dr. Davis prepared is attached as Exhibit A. Dr. Davis and I went to a LNDD copy machine where he made three copies of the sheet. He gave one to me and one to USADA's counsel. No one from LNDD handled the copying. Dr. Davis retained custody of the original sheet. At no point in the entire process was the sheet shown to any LNDD representative, a fact which Dr. de Ceaurriz, Dr. Boisson, Ms. Frelot and Ms. Mongongu individually verified to Mr. Scott and Dr. Davis later in the week.

18. The technician placed the ten new sample bottles in a shallow open box and left the sample preparation room, never again to be involved in the sample handling or analysis. The technician made no record of the original or new sample numbers. None of the other

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<sup>3</sup> Mr. Scott assisted the technician in the sealing. Because LNDD almost always receives sample bottles that are already sealed, the technician initially could not figure out how to screw the cap on the bottle to seal it. (The screw mechanism automatically locks and seals the sample bottle.) Mr. Scott took the bottle and showed the technician how he to remove and discard the red plastic washer or ring that rested on the lip of the bottle's neck.

LNDD employees involved in the sample preparation and analysis witnessed or participated in any aspect of the blinding process.

*Other Observations and Participation by Mr. Landis' Representatives*

19. I have reviewed the Declaration of Paul Scott dated April 27, 2007 that has been filed in this matter, which purports to describe events that occurred during the April 2007 analyses. The Scott Declaration contains a number of misstatements. It also fails to mention important facts that bear on any evaluation of the April 2007 analyses.

20. As I understand Mr. Scott's declaration, he is alleging in essence that he and Dr. Davis were deprived of a meaningful opportunity to observe LNDD's handling and analysis of the Landis and other samples. Nothing could be further from the truth. In my more than twenty years in the profession, I have never witnessed, or even heard of, a situation such as I observed at LNDD where a third-party like Mr. Landis, with a stake in the outcome of the analysis, had such a thorough and complete opportunity to observe the sample handling and analysis.

21. Both Mr. Scott and Dr. Davis observed, had the opportunity to observe or, in some instances, participated actively in every material step of the process at LNDD. For example:

(a) As previously described, they helped me design and implement the blinding process, including determining the number of negative control samples to be used, marking the new sample bottles into which they and Mr. Landis' samples were transferred, and keeping creating a confidential record that tracked which of the original sample bottles pertained to the new bottles. They were offered the opportunity to perform other steps in the blinding process, including sample transfer.

(b) They observed the retrieval from freezer storage of the Landis samples.



(c) They witnessed several full and partial days of LNDD's preparation of the samples for IRMS and Gas Chromatography-Mass Spectrometry (GCMS) analysis.

(d) They witnessed the chain of custody of the samples and their aliquots throughout the process.

(e) They confirmed, or had the opportunity to confirm, that the original and new sample bottles were sealed and not tampered with.

(f) They asked and had answered literally hundreds of questions of LNDD personnel, to the point that they delayed and at times interfered with or distracted lab personnel during their assigned tasks.

(g) They suggested the lab technicians perform tasks in certain ways, such as pouring the sample material from one bottle to another, rather than using pipettes to make the transfer, and keeping in storage old sample bottles that no longer contained sample material.

(h) They demanded information of lab technicians while they were engaged in sensitive steps in the process.

(i) They were provided the results or readouts of the analyses as soon as they were generated and validated.

(j) They were given full opportunity to review all of the paperwork generated during the data reduction, including chromatograms, injection times and other information.

(k) They repeatedly pressured LNDD to produce results sooner than LNDD's standard operating procedures (SOPs) and schedule allowed.

(l) They viewed LNDD's SOPs associated with sample preparation, GCMS and IRMS.

22. Mr. Scott's complaint that he was wrongly denied access to the LNDD facility on Sunday April 22 and Monday April 23 misrepresents the facts and misleads. On Friday, April 20, Mr. Scott, Dr. Davis, representatives of LNDD (Dr. Jacques de Ceaurriz and Dr. Corrine Buisson), USADA's counsel and myself all expressly agreed that no one representing USADA or Mr. Landis would be present during the last stages of the analysis, data reduction and reporting that remained for any samples whose results had not been reported as of Saturday. All parties agreed in the presence of the others that neither USADA's or

Mr. Landis' representatives would have access before the other to the results that were to be reported on Sunday or Monday.

23. Mr. Scott's statement in paragraph 5.c.i. on page 4 of his declaration that he and Dr. Davis were "in every case" denied the opportunity to observe IRMS analysis (or at least were denied on the "several occasions" they requested) is false or misleading. They were allowed to observe IRMS analyses for each sample processed during the five days Dr. Davis was present and the six days Mr. Scott was present.

24. Contrary to Mr. Scott's statements at page 2, paragraph 5a.iii. of his declaration, there was never any "agreement" to allow him or Dr. Davis to observe linearity or stability runs, although LNDD did in fact allow them to see results of stability analyses during the week, which is normally not done in B sample observations. Mr. Landis' and LNDD's representatives were initially confused when Mr. Landis' representatives requested to see linearity runs. *Linearity* runs are done only on a monthly basis, which LNDD informed us had been done just before the April 2007 analyses began. It was this monthly test that LNDD informed Mr. Landis' representatives they could not observe because it was already done. The other type of runs LNDD performs are *stability* runs, which are run in advance of analysis of each sample and are independent of the monthly linearity check. Mr. Landis' representatives were in fact able to view these runs, contrary to the impression Mr. Scott creates in paragraph 5.a. of his declaration. Mr. Landis' representatives requested that LNDD re-run the monthly linearity test, which LNDD reasonably declined.

25. Mr. Scott's statement at paragraph 5.b.iv. on page 3 of his declaration that Mr. Dunn instructed LNDD personnel not to provide Mr. Scott with any documentation is

untrue, to the best of my knowledge. Mr. Dunn very specifically and carefully limited his comments regarding LNDD documents to those that are not normally provided in a B sample observation or that exceeded the scope of what the arbitration Panel in this matter had authorized, and that Mr. Scott and Dr. Davis should not make requests for documents outside the presence of a USADA representative.

26. Mr. Scott's statement in paragraph 7 at page 6 of his declaration that Mr. Dunn and I had unfettered access to laboratory personnel and documents is not true. Just like any outside party allowed access to LNDD's laboratory area, we were escorted by or in the presence of a LNDD representative the entire time we were in the laboratory area. To the best of my knowledge, I received no information or documents regarding the sample analyses from LNDD during the time I was at their offices that were not also provided or available to Mr. Landis' representatives.

27. Mr. Scott's statements at pages 3 and 4 of his declaration leave the mistaken impression that he and Dr. Davis were denied access to sample preparation, GCMS and IRMS standard operating procedures (SOPs). At numerous times during the week's events, I witnessed each of them reviewing the SOP for sample preparation in the sample preparation room and the SOPs for GCMS and IRMS analyses in the room where that equipment is located.

28. I recall at one point that Dr. Davis also asked LNDD personnel to provide him the IRMS manufacturer's operating manual. Mr. Dunn objected. Dr. Davis said that he had ready access to the operating manual through other means and did not pursue the request.

29. One of the final parts of the IRMS analysis before results are reported is sometimes referred to as data reduction, which includes data integration, verification and printing. This occurs after the IRMS and GCMS machines have completed their analyses. The IRMS operator sits at a computer terminal where she runs the IRMS machine's output files through the IRMS software program, performs various verifications of the readings, and prepares the written results. As images or data flash on the screen, the operator executes keyboard commands at specific times as required by the software. Even though the results are dictated by the previously completed analyses, the operator nonetheless must take extreme care and pay careful attention so errors are not made. If she is distracted by questions or requests to pull up various information, it is possible the operator could make mistakes or fail to complete the process in a timely manner consistent with other duties.

30. During the Wednesday morning briefing meeting, Dr. de Ceurittz announced that the results from the first sample would be ready soon. The parties were then escorted to the sample preparation room in the laboratory. Data reduction on the first sample had been completed by this time. Mr. Scott or Dr. Davis insisted they be allowed in the IRMS room to observe the data reduction. Without any direction or request from USADA, Dr. de Ceurittz explained that would not be possible because it had been completed and that it could not be repeated without significant disruption to the schedule and other factors. Mr. Scott and Dr. Davis persisted in their insistence to see the reduction. At that point, Dr. de Ceurittz declined again and expressed his position with some emotion. Mr. Scott responded by acknowledging the reasonableness of Dr. de Ceurittz' concerns and voluntarily withdrew his request. Mr. Scott, also stated at that point that he was "okay" with not seeing the data reduction or processing step, and apologized. No representative of USADA was able to observe the data

reduction for the first sample. It was not a problem for us and should not have been a problem for Mr. Landis' representatives because the written information we were all provided shortly thereafter, coupled with the opportunity to ask questions of the LNDD persons involved, was sufficient to allow an adequate understanding of the results and how they were generated..

31. The next day (Thursday April 19) Mr. Scott and Dr. Davis again requested to observe the data reduction and printing steps in connection with the second sample Ms. Mongongu was handling in IRMS that day. Dr. de Ceaurittz again declined without any request, direction or suggestion by USADA that he do so. USADA's representatives were similarly not able to observe the data reduction associated with the second sample.

32. On Friday morning during our regular initial meeting in conference room outside of the laboratory, Mr. Scott and Dr. Davis were given the opportunity to observe the data reduction and printing with the next sample Ms. Mongongu was processing that day. They were offered the chance to stand behind her as she sat at the computer and performed the functions. They were encouraged to ask all of the questions they wanted about what she was doing and why. They were also offered the opportunity to request that Ms. Mongongu pull up whatever available computer screens or information she had viewed or processed in connection with the two prior samples. They were again encouraged to ask all of the questions they wanted about what she had done and why. In response to these offers and overtures, Mr. Scott stated that they no longer needed or wanted to observe those part of the process because their information needs had been fully satisfied by the detailed written information and explanations we had given them regarding the earlier samples. I specifically recall Mr. Scott saying that they were "totally happy" with what they had seen and had been explained to them regarding the earlier samples.

33. Throughout the week, Mr. Scott and Dr. Davis were given the opportunity to receive copies of all of the written results and associated documentation produced as a result of or following the data reduction, which were contained in individual folders labeled with the new sample number. They declined every time, with one minor exception.<sup>4</sup> They did take copious notes, however, and appeared to transcribe the results and other information.

*Mr. Scott's Agreement Regarding Observation on Sunday and Monday*

34. On Friday afternoon, again in the conference room outside of the laboratory, I participated in a discussion with Mr. Landis' and LNDD representatives about what further steps in the process Mr. Landis' representatives wished to observe. LNDD had informed all of us that the results of the sixth and seventh samples would be reported on Saturday morning, the results of the eighth and ninth samples were scheduled to be reported on Sunday, and results of the tenth sample on Monday. We also knew that all of the sample preparation work would be completed Saturday morning or early Saturday afternoon, and that the only steps that remained for Sunday and Monday were the running of the GCMS and IRMS machines<sup>5</sup> and the data reduction and report preparation that Mr. Landis' representatives had declared earlier that morning they no longer wanted or needed to observe. USADA's and Mr. Landis' representatives each agreed that none of them would remain after Saturday and that the sole method for the parties to receive further information would be for LNDD to e-mail the results and the basic documentation simultaneously and jointly to the four of us on Sunday and

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<sup>4</sup> The one minor exception was that they requested and were provided copies from each sample report folder a sheet "Masslynx - Sample List."

<sup>5</sup> This is essentially a passive operation that takes hours, which Mr. Landis' representatives chose not to observe at all or for long during each of the prior days they were in operations.

Monday. The parties agreed that under no circumstance would either party be allowed to observe or receive results before or without the other.

35. Mr. Scott states in paragraph 8.a. on page 7 of his declaration that on Friday, “We all agreed that [this arrangement of simultaneously e-mailing the remaining results] would be an acceptable result *in case that continued observation was not possible.*” (Emphasis added.) This statement is misleading and disingenuous. The emphasized part of his statement was never expressed or understood. Mr. Scott had agreed on Friday that he was going home and would *not* be present on Sunday or Monday. He also agreed on both Friday and Saturday, without any qualification, that the results would be e-mailed. I certainly had no understanding at this point that he or any of the other observers were considering the possibility of staying over past Saturday.

36. Saturday morning began with a meeting among the representatives of LNDD, myself, Mr. Dunn, and Mr. Scott as the sole representative of Mr. Landis. We were told by Mr. Scott that Dr. Davis had flown back to England, which was consistent with the understanding reached the day before that none of the parties would remain after Saturday. Mr. Dunn and I told Mr. Scott we too were returning to the United States on Sunday. Mr. Scott again confirmed the agreement reached on Friday and stated he was flying to the United States on Sunday and would not be present Sunday or Monday. After we reported and reviewed the results of the sixth sample, Mr. Dunn left the LNDD premises at about 12:30 p.m. It was clear to me that Mr. Dunn decided to leave based on Mr. Scott’s representation and promise not to appear at LNDD on Sunday or Monday and that, if Mr. Dunn had known Mr. Scott was planning to stay, he would have stayed as well.

37. After Mr. Dunn left on Saturday afternoon, Mr. Scott and I remained until about 4:00 p.m. Shortly before everyone departed for the day, Mr. Scott for the first time, and quite to my surprise, informed Dr. de Ceaurriz and me that, while he still believed he would not appear on Sunday or Monday, there was a *possibility* he might receive “orders” from Mr. Landis’ counsel, Maurice Suh, to stay. He stated to me the reason he might be ordered to appear on Sunday or Monday was that the arbitration Panel’s expert might appear those days. He did not suggest that he might be ordered to stay over because of any desire or need he or Mr. Landis had to observe the remaining steps of the ongoing sampling process at LNDD. Dr. de Ceaurriz informed Mr. Scott that it was his conclusion that it would not be possible or appropriate for Mr. Scott to enter the lab on Sunday if no representative of USADA were able to be there. I did not direct or request Dr. de Ceaurriz to reach this conclusion or make this statement. His statement was simply a reflection of the understanding of the agreement the parties had reached and confirmed. Mr. Scott did not disagree with Dr. de Ceaurriz’ conclusion. On the contrary, he responded that he understood. I left with the distinct impression that he was not going to appear on Sunday or Monday.

38. Mr. Scott states in paragraphs 8.d. and 8.e. on page 7 of his declaration that he informed me, Dr. de Ceaurriz and Dr. Boisson at 11:00 a.m. on Saturday morning, April 21, that he “wanted, if possible, to be present” to obtain the data from the sample results to be reported on Sunday morning. This statement is untrue. It was not until much later in the day on Saturday, after Mr. Dunn had left, that Mr. Scott ever even hinted of the possibility of appearing on Sunday or Monday, and even then he said it was unlikely unless Mr. Suh ordered him to stay over.



39. Mr. Scott indicates in paragraph 8.e. on page 7 of his declaration that he told me and Dr. deCeuriz on Saturday that, if it was possible for him to come to LNDD on Sunday and Monday, he was going to be present, and that I gave him my card for him to call me so that I could appear as well. These statements are particularly misleading or inaccurate. First, the only conversation we had where he mentioned the possibility of appearing on Sunday or Monday occurred late in the afternoon on Saturday, not at 11:00 a.m., as the context of his declaration implies. Second, Mr. Scott never said that, if it was possible for him to be present, he would be. He said it was unlikely he would be present but possible if ordered because the Panel's expert might appear. Third, I never gave him my contact information for the purpose of calling me if he ended up attending Sunday or Monday so that I too could attend. He asked me for the contact information without linking his request to his possible appearance on Sunday or Monday. He knew I was flying home on Sunday and could not attend.

40. At 1:30 a.m. on Sunday morning, I received a telephone call from Dr. de Ceuriz telling me he had received a message that declared without explanation that Mr. Scott would appear at LNDD on Sunday morning. Like Dr. de Ceuriz, I was troubled by the message because it was contrary to the clear agreement the parties had reached when Mr. Dunn left Saturday afternoon, inconsistent with the statement Mr. Scott made on Saturday afternoon that he would not likely appear, and at variance with his apparent understanding and agreement earlier in the day after Dr. de Ceuriz told him it would not be possible because no one from USADA was planning to attend.

41. I received a call from Mr. Scott on Sunday morning about 10:30 a.m. as I was preparing to leave for the airport. Mr. Scott told me he was minutes away from LNDD and was going to demand entry into the lab. I explained to Mr. Scott that I was leaving for the

United States shortly and could not change my plans to attend. I also told him I did not think LNDD would allow him access because no USADA representative would be present.

Mr. Scott also knew Mr. Dunn was traveling home Sunday morning and would also not be able to attend.

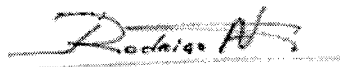
42. Mr. Scott did not inform me he had made any attempt to notify Mr. Dunn of his surprise visit, even though he knew Mr. Dunn had decided not to attend based on Mr. Scott's express and repeated promise not to attend himself. Mr. Scott had Mr. Dunn's cell phone number and e-mail address and had observed Mr. Dunn sending e-mails on his Treo cell phone throughout the week.

43. No representative of USADA to my knowledge ever instructed or requested anyone at LNDD not to allow Mr. Scott to enter the LNDD facility on either Sunday or Monday.

#### *Evaluation of LNDD Results*

44. I have reviewed the results and data packages from the April 2007 analyses. Based on data reflected in those results, my more than 50 hours at LNDD observing the sample handling, preparation and analyses, and my many years of experience in analytical chemistry and IRMS and GCMS analyses, I have no doubt the results produced by LNDD are reliable and accurate.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on April 30, 2007.

A handwritten signature in black ink, appearing to read "Rodrigo Aguilera", written over a horizontal line.

Rodrigo Aguilera, Ph.D.

# **Exhibit A**

Sample No

Code

Blue label.

red label.

994075 B

825428

994203 B

993856

994276 B

825425.

994277 B

993855.

995462 B

993865.

994080 B

825429

NL1

825427

NL2

825426

NL3

825423

994171.

825424.